



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

LINDA C SMITH MD  
3150 MEDICAL CENTER DRIVE SUITE 1  
BEAUMONT TX 77701

#### **Respondent Name**

EMPLOYERS INSURANCE CO OF WAUSAU

#### **Carrier's Austin Representative Box**

Box Number 01

#### **MFDR Tracking Number**

M4-09-6045-01

#### **MFDR Date Received**

FEBRUARY 10, 2009

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Items in dispute are the J0475 code for the Lioresal kits purchased for dates of service 1/15, 3/3, 4/16, 5/28/2008 that Wausau asked to be refunded on the basis of changing our code from the bought Lioresal kits with a code of J0475 to J7799 which is the code for a compounded drug which we did not do. We have refunded the payments under protest and would like to be reimbursed for these kits at the CMS guidelines, which have been included with this form." "

**Amount in Dispute:** \$6,750.16

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Medicare Part B Newsletter No. 06-062, June 1, 2006, p. 30, provides as follows regarding the use of disputed code J7799KD. 'Effective immediately, for proper reimbursement, all drugs used in an implantable unfusion pump must be billed using code J7799KD whether a single or combination of drugs are administered....Some drug descriptions are similar to specific HCPCS codes (e.g., code J2275 for preservative-free morphine or J0475 for baclofen). Do not use these codes when submitting claims for reimbursement.."

**Response Submitted by:** Liberty Mutual Insurance Co.

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 15, 2008 March 3, 2008 April 16, 2008 May 29, 2008 July 10, 2008 August 19, 2008 October 1, 2008	HCPCS Code J0475	\$6,750.16	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307, effective May 25, 2008, 33 *Texas Register* 3954, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 set out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
3. 28 Texas Administrative Code §134.1, effective March 1, 2008, 33 *Texas Register* 626, provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

### Explanation of benefits

- 16-Claim/service lacks information which is needed for adjudication.
- X116-This payer denies this charge pending a statement documenting medical necessity.
- 42-Charges exceed our fee schedule or maximum allowable amount.
- 24-Payment for charges adjusted. Charges are covered under a capitation agreement/managed care plan.
- P303-This service was reviewed in accordance with your contract.
- Z710-The charge for this procedure exceeds the fee schedule allowance.
- PA-First Health
- B7-This provider was not certified/eligible to be paid for this procedure/service on this date of service.

## **Issues**

1. Does the documentation support that the respondent notified the requestor of a contracted fee negotiation?
2. Did the requestor support position that billing is in accordance with Medicare policy?
3. Is the requestor entitled to reimbursement?

## **Findings**

1. 28 Texas Administrative Code §133.4(g) states "Noncompliance. The insurance carrier is not entitled to pay a health care provider at a contracted fee negotiated by an informal network or voluntary network if:  
(1) the notice to the health care provider does not meet the requirements of Labor Code §413.011 and this section; or  
(2) there are no required contracts in accordance with Labor Code §413.011(d-1) and §413.0115."

On November 3, 2010, the Division requested a copy of the written notification to the health care provider pursuant to 28 Texas Administrative Code §133.4. No documentation was provided to sufficiently support that the respondent notified the requestor of the contracted fee negotiation in accordance with 28 Texas Administrative Code §133.4(g).

28 Texas Administrative Code §133.4(h) states "Application of Division Fee Guideline. If the insurance carrier is not entitled to pay a health care provider at a contracted rate as outlined in subsection (g) of this section and as provided in Labor Code §413.011(d-1), the Division fee guidelines will apply pursuant to §134.1(e)(1) of this title (relating to Medical Reimbursement), or, in the absence of an applicable Division fee guideline, reimbursement will be based on fair and reasonable reimbursement pursuant to §134.1(e)(3) of this title."

The Division concludes that the respondent's is not entitled to pay the requestor at a contracted fee reduction; therefore, the disputed services will be reviewed per applicable Division rules and guidelines.

2. HCPCS code J0475 is defined as "Injection, baclofen, 10 mg."

The requestor wrote on October 20, 2008 that "...Dr. Smith has not used compounded drugs since Trailblazer has ok'd using actual infusion pump kits by billing J0475. This is an approved code and is a purchased kit from Medtronic...We are NOT using COMPOUNDED DRUGS. We are using a purchased Lioresal kit which was correctly coded as J0745."

According to the Medicare Part B Newsletter No. 06-062, June 1, 2006, states "Effective immediately, for proper reimbursement, all drugs used in an implantable infusion pump must be billed using code J7799-KD whether a single or combination of drugs are administered."

28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

The Division finds that per Medicare Part B Newsletter No. 06-062, June 1, 2006, "all drugs used in an implantable infusion pump must be billed using code J7799-KD"; therefore, the requestor did not support the use of code J0475. As a result, reimbursement is not recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

**Authorized Signature**

_____	_____	<u>2/26/2013</u>
Signature	Medical Fee Dispute Resolution Officer	Date

**YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a *certificate of service demonstrating that the request has been sent to the other party.***

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**